

ORIGINAL

DIVISION OF CONSUMER ADVOCACY
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PUBLIC UTILITIES
COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MOLOKAI PUBLIC UTILITIES, INC.)
For Review and Approval of Rate Increases;)
Revised Rate Schedules; and Revised Rules)

DOCKET NO. 2009-0048

**DIVISION OF CONSUMER ADVOCACY'S
RESPONSES TO INFORMATION REQUESTS
FROM WEST MOLOKAI ASSOCIATION AND MOLOKAI PUBLIC UTILITIES, INC.**

Pursuant to the Stipulated Regulatory Schedule approved in Order Approving Proposed Procedural Order, as Modified filed on November 6, 2009, the Division of Consumer Advocacy submits its **RESPONSES TO INFORMATION REQUESTS FROM WEST MOLOKAI ASSOCIATION AND MOLOKAI PUBLIC UTILITIES, INC.** in the above docketed matter.

DATED: Honolulu, Hawaii, January 28, 2010.

Respectfully submitted,

By Dean Nishina
DEAN NISHINA
Executive Director

DIVISION OF CONSUMER ADVOCACY

DOCKET NO. 2009-0048

MOLOKAI PUBLIC UTILITIES, INC.

**DIVISION OF CONSUMER ADVOCACY'S RESPONSE TO WEST MOLOKAI
ASSOCIATION'S INFORMATION REQUESTS**

WMA-IR-DCA-101 Water leakage/water losses. Please provide all data in your agency's possession quantifying the water lost, unaccounted for, or otherwise not delivered to MPUI's consumers. This would include earlier studies, calculations made in this or earlier proceedings, and data that may have been prepared for use in collateral proceedings (e.g. HPUC Docket 2009-0049).

RESPONSE: All of the data available to the Division can be found on the Commission's document management system at the following website: <http://dms.puc.hawaii.gov/dms/>

The calculations made in this or earlier proceedings have been or were made available in exhibits and/or workpapers.

WMA-IR-DCA-102 Water loss standards. Please provide the documentation in support of the Division's implied standard of a maximum 10% allowance for lost or unaccounted water. Provide copies of any studies or reports for industry standards that support such a 10% standard, for ratemaking purposes.

RESPONSE: The Consumer Advocate generally recalls that the 10% allowance was based on an American Water Works Association ("AWWA") report that was cited in past proceedings. In fact, in Docket No. 02-0371, the Company's last rate proceeding, there was discussion of this matter, which was incorporated into the instant proceeding by reference. The report that supported the proposed 10% threshold was explained in the AWWA January 2002 Survey of State Agency Water Loss Reporting Practices Report by Janice Beecher of Beecher Policy Research, Inc. A copy of this survey was provided as CA-WP-106 in Docket No. 02-0371 and the Consumer Advocate has verified that it is available on the Commission's document management system.

WMA-IR-DCA-103 On page 17, lines 9-17, DCA appears to take a negative view of increasing rates to recover fixed costs, using analogies of a competitive situation. Please detail DCA's position on the utilization of increasing rates to recover the fixed costs revenue requirement (vis-à-vis variable cost revenue requirement) in non-competitive market conditions.

RESPONSE: It appears that the cited testimony is being mischaracterized as the Consumer Advocate's position is not "negative" regarding the possibility of increasing rates to recover fixed costs. The cited section was discussing one possible justification for an excess capacity adjustment, explaining that, in certain instances, designing rates to recover fully embedded costs would yield results that would affect customers adversely.

The Consumer Advocate is not certain that it understands the question, but the Consumer Advocate generally supports the design of rates that allows the recovery of reasonable, normalized costs for a given test year. Rates can be designed to recover fixed costs through fixed rates and variable costs through variable rates. The Consumer Advocate has, at times, supported the recovery of some level of fixed costs through variable rates. There are different reasons for this type of approach. One reason is that by including fixed costs within variable rates, this makes variable rates higher which should facilitate efforts to establish price signals to promote conservation. Another reason is that by having some level of fixed costs considered when developing variable rates, this helps to

minimize the impact of rates and rate increases on low use customers.

WMA-IR-DCA-104 Assuming there can be some general consensus on categorizing operating expenses and plant-related expenses as either being fixed or variable, does DCA have any objection to recovering fixed costs from a fixed cost revenue requirement and recovering the variable costs from a variable cost revenue requirement? If so, please explain the bases of the objection?

RESPONSE: Please see the response to WMA-IR-DCA-103. The described approach in this request could be used as a possible rate design approach. The Consumer Advocate would not necessarily object to this approach. However, the Consumer Advocate offers that the inclusion of some level of fixed costs in variable rates can serve certain public policies as already discussed.

In this particular case, given the questions surrounding the reasonableness of the Company's asserted level of rate base, as well as the questions surrounding the accuracy of the Company's operating and maintenance expenses, attempting to functionalize the Company's cost of service may not be a meaningful exercise.

WMA-IR-DCA-105 Please provide a detailed description of what DCA believes to be normalized conditions for the future demand for potable water to be consumed in the MPUI service area, with regard to volume of water consumed by customers, the number of customers, the characteristics of the different categories of customers, and other demographics germane to ratemaking.

RESPONSE: As discussed in the Consumer Advocate's testimony, given the various changes occurring in the company's affiliated organizations, economic conditions, etc., the ability to develop normalized estimates for water sales in the instant test year is difficult. Significant changes have occurred in the number of meters, the gallons of water recorded and the average use. Thus, developing a normalized estimate for the test year, as discussed in testimony, cannot be easily developed from any type historical analysis.

WMA-IR-DCA-106 Please explain DCA's reasonableness standard or otherwise apparent appropriateness, of a utility such as MPU expending more than twenty-five percent (25%) (\$350,000/\$1,326,097) of its projected annual costs for regulatory matters.

RESPONSE: To make clear, the Consumer Advocate is concerned with the proposed level of regulatory expense. However, the Consumer Advocate is aware of other situations where small utility companies were allowed to recover total regulatory expenses that represented a significant amount in comparison to annual operating and maintenance expenses. See Decision and Order No. 18406 filed on March 6, 2001 in Docket No. 00-0017, where Laie Water Company, Inc. sought to recover \$250,000 in rate case expenses, and after an adjustment to remove in-house expenses, the Commission allowed Laie Water Company, Inc. to recover \$220,000. This amount, when compared to the authorized operating and maintenance expenses (including the amortized rate case expenses), represented more than 40% of the total expense amount that was approved.

The Consumer Advocate did not recommend an adjustment to the Company's forecasted regulatory expense based on two factors. One is that, while the Consumer Advocate has recommended downward adjustments to estimates in other proceedings for other small water and wastewater companies, the Commission's decision and order in one of the most recent cases

suggests that the Commission supports the need for analysis of rate case expenses on a case-by-case basis.

In addition, the Consumer Advocate had anticipated that other parties might be interested in either participating or intervening in the case. As evidenced by the other parties in the instant proceeding, the expectation that the instant rate proceeding would cause great interest in the Molokai community was realized. With that realization, the Consumer Advocate also assumed that, given the Commission's guidance of analyzing the reasonableness of rate case expenses, it is likely that any downward adjustment must be supported by evidence of more substance than the arguments set forth in prior cases.

WMA-IR-DCA-107 If DCA's apparent conclusion that "excess capacity" is the current situation and will continue for some time, how does the Consumer Advocate propose to deal with all costs associated with MPUI's "excess capacity" situation, while maintaining rates that are fair and reasonable to consumers remaining on the system?

RESPONSE: As described in testimony, the Consumer Advocate expects that the Company will need to file another rate increase request in the near future due to various possible events, including but not limited to the following: 1) the Commission requiring the Company to address the lack of support for various elements in the revenue requirement process; 2) a break even approach applied to the instant rate proceeding; or 3) due to changing factors, such as economic conditions persisting and continued customer demand decreases. Until that next application is filed, however, the Consumer Advocate's ability to confidently assert that normalized estimates can be developed given the significant recent changes in the customer base, organizational structure, etc. is diminished. Thus, the Consumer Advocate is suggesting that if additional information is provided, the Commission could consider the possibility of an excess capacity adjustment in the instant proceeding. However, if that is not possible, assuming that certain conditions have stabilized as well as having additional data to better evaluate what might reflect normalized activity levels will be available for that next rate proceeding.

WMA-IR-DCA-108 Given the Division's experience with automatic fuel adjustment and electric adjustment clauses for small water companies throughout the State, please provide a comparative analysis of the general situation with MPUI's situation.

RESPONSE: In the past, the Consumer Advocate has not objected to the Commission's approval of similar requests made by other small utility companies. The Consumer Advocate has re-evaluated that position and has been generally recommending that the Commission should not allow small utility companies to implement automatic adjustment clauses. Two reasons for this position are as follows:

1. Automatic adjustment clauses represent an effort to allow single-issue ratemaking for certain expenses that are significant in nature and is generally not within management's control. The purpose of such cost recovery mechanisms is to mitigate the possibility of more frequent rate requests, such as on a back-to-back basis. The Consumer Advocate has seen, however, many small utility companies not file rate increase applications for very long periods. As a result, when rate increase applications are filed, those requests can be as high as 100% or more. The Consumer Advocate contends that it is in the public interest, from both the perspective of the company and its customers to have more frequent rate filings to not only address the financial stability of the company, but to also smooth the

additional burdens that are being placed on the customers. The lack of automatic adjustment clauses should encourage small utility companies to come in more frequently, say on a three to five year basis, as compared to a seven year hiatus or more.

2. Another reason is that most of the small utility companies do not file updates on the adjustment clause rates that are being applied. The concern with this lack of filing is that if a customer has a complaint, the Commission and the Consumer Advocate has not been kept apprised of the situation and of the current adjustment rate since regular updates, which are normally filed by the larger utility companies, are not filed by the small utility companies.

Those are two examples, but the Consumer Advocate contends that they are applicable to MPUI as well. In addition, as mentioned in other responses, the Consumer Advocate anticipates that MPUI will need to file another rate increase application in the near future. If conditions lend more weight to the reasonableness of allowing MPUI to have one or more automatic adjustment clauses, the Consumer Advocate will consider the evidence available at that time.

DOCKET NO. 2009-0048

MOLOKAI PUBLIC UTILITIES INC.

**DIVISION OF CONSUMER ADVOCACY'S
RESPONSES TO MOLOKAI PUBLIC UTILITIES, INC.'S
FIRST SUBMISSION OF INFORMATION REQUESTS**

MPU-IR-CA-1

Ref: CA-T-1, p. 6, I. 8

- a. Please confirm that the reference on line 8 to "MPUI" should be to "MIS".

RESPONSE:

Yes. The reference on line 8 should have been to MPUI's access to the MIS.

- b. If not, please explain what the reference to MPUI is made with regard to the continued provision of service.

RESPONSE:

N/A.

MPU-IR-CA-2

Ref: CA-T-1, p. 7, I. 2-8

- a. Please explain the determination that a rate increase, if approved, would result in the Company having revenues exceeding \$2 million.

RESPONSE:

The inclusion of that statement was inadvertent and should have been excluded from the testimony in this docket.

- a. Please identify all areas where the Consumer Advocate believes. "...it is likely that there are additional adjustments that could have been identified."

RESPONSE:

The Company's request is seeking to have the Consumer Advocate pursue potential additional adjustments that it was seeking to avoid. The Consumer Advocate objects to the instant request as it seeks to enlarge the scope of the Consumer Advocate's testimony. Notwithstanding the Consumer Advocate's objection, the following response is provided.

In general, one area of additional adjustments would be nominal in nature and would not individually affect the ultimate revenue requirement significantly.

Other possible adjustments may have been recommended if provided additional time to allow further investigation and assessment of certain estimates as typically conducted with more staff resources.

- b. Since the Consumer Advocate testifies that, "[T]he results will be reasonable, ...", does the Consumer Advocate agree that any possible adjustment to the remaining accounts would not be material to the overall establishment of the revenue requirement in this proceeding?

1. If not, please identify any specific account where the Consumer Advocate believes there could be adjustments that could be material to establishing the revenue requirement in this proceeding.

RESPONSE:

The Consumer Advocate's assertion relates to the available time period available to conduct the review and analysis. The Consumer Advocate attempted to identify the majority of significant adjustments that would result in material adjustments. As with any rate case review, the Consumer Advocate contends that with additional time and resources, additional adjustments may have been recognized and it is possible that some of them may have had a material affect on the revenue requirements.

As discussed in the Consumer Advocate's testimony, given the difficulties encountered with respect to the reliability of certain numbers, the procedural and operational changes that resulted in significant impacts on the Company's reported numbers, there are still issues with the ability to confidently rely on the Company's numbers. The Consumer Advocate's assertion that the results are reasonable is in recognition that the rates to be established in the instant proceeding will provide a reasonable placeholder while additional work between rate proceedings can be conducted to examine the reasonableness of the

Company's accounting procedures and the reported numbers.

- a. Does the Consumer Advocate believe it has the right to question any estimate, method, assumption or other factor in any new regulatory proceeding it is participating in before the Commission?
 1. If so, please explain the need for the statement beginning on line 7 of page 10 of CA-T-1.
 2. If not, please explain and provide documentation to support the limitations placed on the Consumer Advocate.

RESPONSE:

The Consumer Advocate believes that it is statutorily charged with the responsibility to review and raise questions regarding various estimates, methods, assumptions and other factors in regulatory proceedings before the Commission.

There have been certain instances when utility companies have either taken the Consumer Advocate's silence on certain matters or an agreement in another docket as establishing precedent. Thus, the Consumer Advocate's statement on page 10, lines 7 through 9, speaks for itself and is meant to convey that the silence on certain matters should not be taken to mean that the Consumer Advocate has agreed with a particular estimate or method.

- a. Please provide all instances, with supporting orders or other documentation, where utility plant that is used and useful in providing utility service and was not excess capacity for the then existing customer base, was determined to be excess capacity because of the loss of customers.

RESPONSE:

The Consumer Advocate is not currently aware of any cases decided by this Commission that match the described situation. The Consumer Advocate has not researched other jurisdictions. If any cases are found during the instant proceeding, the results of the research will be submitted.

- b. Please provide all reasons why the utility should be penalized because economic conditions have forced several large customers to close and remove themselves as customers of the utility.

RESPONSE:

The Consumer Advocate's testimony explains why it would be unreasonable to expect a smaller customer base to bear the entire burden of plant investment originally designed to support a larger customer base. While the Company has characterized the possible outcome of recognizing an excess capacity adjustment when conditions may result in customers leaving the system as a penalty, the Consumer Advocate contends that the consumers would be harmed or penalized just as much as, if not more than, the utility company. If the remaining customers are required to face the higher prospects of higher rates because of a

diminishing customer base and decreasing sales, as well as dealing with the adverse forces associated with the conditions that lead to the departure of other customers, such as decreasing wages, loss of jobs, etc., that is unreasonable.

The Commission is tasked with the objective of setting reasonable rates. The customer of any system is responsible for bearing the costs associated with the services provided to that customer. Asking a group of 100 customers to bear all of the system and operating costs associated with serving 200 customers would not be reasonable, just as asking a group of 10 customers to bear those same costs would not be reasonable. Customers should not be required to bear the costs associated with a company's ability to serve other customers. Such rates would not be reasonable.

- c. Please confirm that it is the Consumer Advocate's understanding that the existing Company facilities as reflected in rate base, which consists mainly of the water treatment plant, were not constructed to serve a significant amount of future customer growth.

1. If this is not the Consumer Advocate's understanding, please provide the basis of the Consumer Advocate's understanding as to the requirements for the majority of the plant included in rate base.

RESPONSE:

It is the Consumer Advocate's understanding that the existing plant, property, and equipment, as reflected in rate base, were constructed to meet the demand of its customers, which has decreased. Further, MPUI's existing plant was not meant to serve a significant amount of future customer growth.

- d. Please confirm that it is the Consumer Advocate's understanding that the current relationship of customer demand and Company capacity was not the result of actions by MPUI.
 1. If this is not the Consumer Advocate's understanding, please provide the basis of the Consumer Advocate's understanding as to the relationship of customer Demand and Company capacity in 2006 or 2007 and in 2009 and 2010, for the majority of the plant included in rate base.

RESPONSE:

It is the Consumer Advocate's understanding that current economic conditions and the relationship of customer demand and Company capacity was not the result of actions by the Company's customers. The Consumer Advocate is uncertain as to how the current situation was or was not caused by decisions made and/or actions taken by the Company or its affiliates.

- e. Please provide all reasons, other than it would create an increased revenue requirement to be recovered from customers, that the Company should be penalized, simply because several large customers have closed due to economic conditions which has resulted in a decrease in customer demand and has resulted in a lower utilization of the Company's facilities.
 - 1. Please include copies of commission orders or other documentation supporting the imposition of such penalties.

RESPONSE:

As already mentioned in the response to subpart a., the Consumer Advocate is not currently aware of any such orders related to the situation described. If additional research yields any such citations during this proceeding, copies will be submitted.

Please see discussion above regarding the establishment of reasonable rates and how requiring the remaining customers to compensate the Company for anything close to fully embedded costs would not reflect reasonable rates. Further, if the Company seeks to recover unreasonable rates from the remaining customers, it is possible that there will be further decrease in the number of customers that remain on its system, which would exacerbate the situation.

MPU-IR-CA-6

Ref: CA-T-1, p. 18, I. 17-21

- a. Please provide or identify all support the Consumer Advocate has showing that any of MPU's undepreciated assets (amounts remaining in net plant) of approximately \$1.1 million shown on the audited financial statements at December 31, 2008 has been written off for tax purposes.

RESPONSE:

The burden of proof rests with the utility company to provide support for the items it seeks to include in the determination of revenue requirements. As discussed in the Consumer Advocate's testimony, when the Company was asked to reconcile differences between the book and tax records, the Company's response to CA-IR-28 indicates that the \$1.1 million is on book but not on tax. As it seems unlikely that the Company would fail to depreciate for tax purposes plant valued at \$1.1 million, the Company must prove that it has not written it off and/or explain why it is not being reflected in the tax records.

MPU-IR-CA-7

Ref: CA-T-1, p. 27, l. 15-18

- a. Please identify all other utility companies the Consumer Advocate is aware of that require or have a 50/50 sharing in the costs of employee benefits.

RESPONSE:

The Consumer Advocate has not conducted any research on this matter. Time permitting, the Consumer Advocate will provide the results of any research if found during the course of this proceeding. As explained in the testimony, however, the Consumer Advocate is aware that most employee benefit plans do not include the company covering 100% of the employee benefit costs. In fact, as already discussed in testimony, many employers are seeking even larger contributions from employees towards employee benefits.

MPU-IR-CA-8

Ref: CA-T-1, p. 29, I. 8-14

- a. Please provide all workpapers and calculations showing the derivation of the \$133,439 for electricity expense on Exhibit CA-111.

RESPONSE:

All of the calculations supporting the \$133,439 are reflected on CA-111 and the excel spreadsheet that was provided to the Company at the time of the Consumer Advocate's direct testimony filing. If the Company did not properly receive the electronic file with the Consumer Advocate's exhibits and revenue requirement model, please contact the Consumer Advocate's office services personnel at 586-2800 and arrangements will be made to have another copy sent to the Company.

MPU-IR-CA-9

Ref: CA-T-1, p. 30, l. 15-17

- a. Please provide all workpapers and calculations showing the derivation of the \$170,241 for fuel expense on Exhibit CA-111.

RESPONSE:

See response to MPU-IR-CA-8.

- a. Please provide all comparisons and reconciliation schedules prepared by the Consumer Advocate, such as the ones supporting the statement on lines 4 to 7, regarding the differences between MPU 10 and CA-IR-54.

RESPONSE:

No formal schedule was developed. The analyses and comparisons conducted by the Consumer Advocate are described on pages 33 and 34. To the extent that there are any factual misrepresentations of the values reflected in the Consumer Advocate's testimony regarding MPU 10 or the response to CA-IR-54, the Company may identify the incorrect value or values, and a correction can be made, as necessary.

- b. Referring to lines 5 and 6, does the Consumer Advocate expect a reconciliation of these amounts to be to the \$0.01 based on the example of a reconciliation that resulted in a difference of approximately \$72 on a total annual amount of approximately \$67,000?

1. If not, please provide what remaining difference would be acceptable if the above difference of approximately 0.107% (one-tenth of one percent) is questioned.

RESPONSE:

From a bookkeeping standpoint, it is the understanding of the Consumer Advocate that efforts are made to reconcile to the last significant digit. In the comparison described in the referenced testimony by the Consumer Advocate, based on the understanding that the support offered in response

to CA-IR-54 was used to develop the entries on MPU 10.5, it was not clear why the totals would not match.

It is unlikely that a \$72 difference would significantly affect the determination of revenue requirements, but that example in conjunction with the other observed difference were provided as examples of the difficulties encountered by the Consumer Advocate in trying to evaluate the available support for the Company's test year estimates.

- a. Assuming that a utility as a stand-alone income tax filer has operating losses that do not permit the use of accelerated tax depreciation (that creates the ADIT used to reduce rate base) or have no State income tax payable that would permit the use of the HCGETC (that creates the HCGETC used to reduce rate base) and that, because of these operating losses for income tax purposes had not calculated or recorded the ADIT or HCGETC.
 1. Please fully explain why the Consumer Advocate believes the customers should receive a benefit, "...as if the Company had properly recorded and taken these tax benefits."
 2. If this is not the Consumer Advocate's position, please provide additional explanation beyond what is provided under the "Recommendation" section of the testimony on page 41.

RESPONSE:

In circumstances where a company is allowed to recognize accelerated depreciation, there will most likely be an accumulated deferred income taxes balance that will reduce rate base. In addition, companies in Hawaii are allowed to reflect a credit in its income tax filing for excise tax payments on certain type of capital investments. The accumulated credits are also used to reduce rate base.

There may be situations, as in the instant case, where a company may have had non-compensatory rates and will not have taken accelerated depreciation and/or the capital goods excise tax credit. Then, if that company then seeks a rate increase, which includes the full income tax expense anticipated with compensatory rates, but does not reflect

neither the NOL offset nor tax benefits, customers are being denied the possible benefits associated with tax depreciation and the credits, while the Company will then be able to experience a virtual windfall if the full income tax expense is recognized in setting rates, but will not be required to pay those taxes because of NOL credits. This would not be a reasonable event.

Similarly, if a company, as part of a consolidated tax filing, was prevented from recognizing the tax benefits described above, the Consumer Advocate contends that it would be unreasonable to allow rates to be set to allow a utility company to include income tax expense, if the benefits that should be normally attributable to customers in the form of accumulated deferred income tax credits and Hawaii State Capital Goods Excise Tax credits are not allowed. In fact, the situation would be even more egregious if compensatory rates were being charged and, if on a stand alone basis, the utility company would have taxable income and the tax benefits normally attributable to customers were not recognized because of losses experienced by affiliates were preventing the benefits associated with tax accelerated depreciation and excise tax credits from being taken.

- b. Assuming that a utility as a company included as part of a consolidated income tax filing which shows that the utility and other companies included in the consolidated income tax filing have operating losses that do not permit the use of accelerated tax depreciation (that creates the ADIT used to reduce rate base) or have no State income tax payable that would permit the use of the HCGETC (that creates the HCGETC used to reduce rate base) and that, because of these operating losses for income tax purposes had not calculated or recorded the ADIT or HCGETC.
1. Please fully explain why the Consumer Advocate believes the utility customers should receive a benefit, "...as if the Company had properly recorded and taken these tax benefits."
 2. If this is not the Consumer Advocate's position, please provide additional explanation beyond what is provided under the "Recommendation" section of the testimony on page 41.

RESPONSE:

See response to part a. above.

- c. Please provide the Consumer Advocate's position and recommendation on the following situation.
1. A utility has incurred operating losses for all years since its inception and uses book straight line depreciation in its income tax filings for each of those years. Since the utility did not have taxable income the utility did not elect to use accelerated income tax rates or depreciable lives. The utility, in its filing for a rate increase, did not show any ADIT for a rate base reduction since it did not use accelerated tax methods, rates or lives in calculating its taxable income in its income tax filings.
 2. Under this hypothetical, would the Consumer Advocate
 - i. Recommend that the Company be required to provide its best estimates of the ADIT and HCGETC for use to reduce rate base in its rate proceeding?

- ii. Recommend that the Company not be allowed an income tax expense since it could have a net operating loss ("NOL") carry-forward which would defer the need to pay income taxes in the test year?
- iii. Recommend that the customers benefit in some other form from the fact that there are NOLs that continue from prior periods into the test year?
- iv. Recommend that the utility be allowed recovery of the income tax expense calculated during the test year since, after the increase in revenue, the utility would have taxable income?

RESPONSE:

The Consumer Advocate notes that the hypothetical situations i through iv could be exclusive of each other or, in certain instances, there could be situations where one or more might be found in a rate proceeding. The following responses are possible recommendations but the Company should be clear that each case has different circumstances and such recommendations would be made on a case by case basis.

The Consumer Advocate contends that a company should avail itself of all reasonable benefits, including accelerated tax depreciation and excise tax credits. As such, in a situation where a company has utilized straight-line depreciation for tax purposes and has not claimed the excise tax credits, the Consumer Advocate may be likely to recommend that the Company should have taken

advantage the benefits available to reduce the cost of service for the company's customers.

Similarly, if the company was operating at a loss and was accruing NOLs, but proposed to include an estimate for income tax expense in a rate case even though the likelihood of actually paying taxes due to NOL offsets were negligible, the Consumer Advocate may recommend in that situation that the Commission should only allow a break even situation.

As it relates to example iii, it is unclear what other benefit the Company proposes. Thus, the Consumer Advocate is unable to respond to this question.

In certain circumstances, even if losses were experienced in past years, it may be appropriate to recommend that a break even approach is unnecessary and estimated income tax expenses be included in the determination of revenue requirements.

3. If the Consumer Advocate would provide any benefit to customers under the hypothetical above, provide all supporting documentation (commission orders, regulatory tenets, etc.) that provide for customer benefits in instances where the customer did not provide any funds or take any action to provide the benefit.

RESPONSE:

The Consumer Advocate is not currently aware of any cases decided by this Commission that match the described situation. The Consumer Advocate recalls at least one other case where a small utility company did not use accelerated depreciation for tax purposes. If time permits and the Consumer Advocate is able to research these types of situations during the course of this docket, the results of that research will be provided.

- a. Provide all supporting documentation that the Company has used excessive depreciation rates in the past.

RESPONSE:

As discussed in the direct testimony, since the Company has a significant amount of plant that is still being used and is useful, but has been fully depreciated, this observation supports the conclusion that depreciation rates were excessive. If the rates were not excessive, it is unlikely that the Company would have such a significant sum of complete depreciated plant that is still used and useful. While depreciation rates should reflect reasonable estimates of the useful lives of plant, property and equipment, there will be times that certain plant items will last longer or shorter than the estimated lives. A company that uses higher than necessary depreciation rates may benefit from those rates in the short term by having initially higher rates. However, after various items are completely depreciated and are still used and useful, rates will be lower and the company may find it harder to build equity and/or to cover interest payments on debt due to having had excessive depreciation rates.

- a. Please identify all additional information the Consumer Advocate believes is necessary to determine if the Consumer Advocate should recommend an excess capacity adjustment to this proceeding.

RESPONSE:

As explained in the testimony, since the customer base is changing, attempting to make an excess capacity adjustment in the instant case may not result in a value that reasonably reflects a normalized estimate. However, the following information would be useful in evaluating an excess capacity adjustment:

- The peak capacity of the plant, preferably by major function or component such as transmission, distribution, etc.
- The average capacity of the plant, preferably by major function or component.
- Historical peak usage, preferably measured by major function or component.
- Historical average usage, preferably measured by major function or component.
- Historical average and peak usage by customer class and/or meter size.
- Design standard values as it relates to the expected average and peak usage by type of customer.

- a. Please provide all reasons why the Consumer Advocate believes that the Company should not be allowed to earn a rate of return ("ROR") of at least 8.1% which has been recommended by the Consumer Advocate in other small water utility rate proceedings.

RESPONSE:

Please see pages 48 – 49 of CA-T-1. As explained in the testimony, the two main reasons are: (1) there is considerable uncertainty with the Company's rate base and any rate of return applied to an unsupported rate base will yield results that cannot be verified as reasonable; and (2) with the magnitude of the proposed increase, the Consumer Advocate is recommending gradualism, and in this instance, a break even approach would minimize the *impact on the customers*.

- b. All other things being equal, no service problems, no rate base valuation problems, appropriate allowance for excess capacity, etc., please provide all reasons why a 2.0% rate of return used by a utility company to keep the revenue increase requested down should not be increased to the current ROR requirement as an offset to ratemaking adjustments.

1. Identify all recent rate applications where the utility filed for a less than required ROR and the Consumer Advocate's adjustments were implemented and, because of the ROR difference (requested v. required) the revenue increase request was not reduced but the ROR was increased up to the required level.

RESPONSE: The Consumer believes that similar proposals have been filed in past proceedings and the Consumer Advocate has generally commented on how the practice should not be deemed reasonable as it might make moot the entire process to determine reasonable normalized estimates

2. Identify all recent rate applications where the utility filed for a less than required ROR and the Consumer Advocate's adjustments were implemented and the lower ROR requested was retained and the revenue increase request was reduced to reflect the Consumer Advocate's adjustments.

RESPONSE: See response to part a. above.

- a. Please explain why, since the revenue increase proposed by the Consumer Advocate as shown on Exhibit CA-121, line 16 is only 21.45% (\$151,430 / \$706,007) over the revenues currently paid by the customers, there should be any phase-in as proposed.

RESPONSE:

As explained in the testimony, "it is likely that the overall increase will easily exceed 25%," thus a phase-in would be appropriate. Even if the total rate increase does not significantly exceed 25%, a phase-in plan might be considered since, given economic conditions, it might make it easier for the customers to bear any such increase.

MPU-IR-CA-16

Ref: Exhibit CA-104

- a. Please provide all supporting calculations for the determination of the accumulated depreciation balances for each plant account on lines 1 to 24 for the accumulated depreciation at June 30, 2009 and June 30, 2010.

RESPONSE:

See response to MPU-IR-CA-8. The excel spreadsheet already provided to the Company contains all formulae and calculations.

- b. Please provide a detailed description of the procedures used to calculate each of those plant balances at each year end.

RESPONSE:

As can be seen by the spreadsheets, the year end balances on CA-104 are based on the depreciation expense that is calculated on CA-105. The majority of the adjustment made to the accumulated depreciation balances is related to the disallowance of the plant items that were reflected on book but not on tax.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **DIVISION OF CONSUMER ADVOCACY'S RESPONSES TO INFORMATION REQUESTS FROM WEST MOLOKAI ASSOCIATION AND MOLOKAI PUBLIC UTILITIES, INC.** was duly served upon the following parties, by personal service, hand delivery, and/or U.S. mail, postage prepaid, and properly addressed pursuant to HAR § 6-61-21(d).

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DATED: Honolulu, Hawaii, January 28, 2010.


